

**U.S. BANKRUPTCY COURT  
District of South Carolina**

Case Number: **11-01302-dd**

**ORDER ON MOTION TO AVOID JUDICIAL LIEN**

The relief set forth on the following pages, for a total of 2 pages including this page, is hereby ORDERED.

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**FILED BY THE COURT  
11/02/2017**



David R. Duncan

David R. Duncan  
Chief US Bankruptcy Judge  
District of South Carolina

Entered: 11/03/2017

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH CAROLINA

IN RE: )  
 )  
Douglas Stephen Brignac ) CASE NO: 11-01302-dd  
Mary Anne Brignac )  
128 Brittany Lane ) CHAPTER: 7  
Bonneau, SC 29431 )  
SSN xxx-xx-4638 )  
SSN xxx-xx-0312 )  
DEBTORS. )  
\_\_\_\_\_ )

ORDER AVOIDING JUDICIAL LIEN (11 U.S.C. Section 522(f)(1)(A))

Before the court is the motion of the debtor to avoid the judicial lien held by the following creditor:

Name of creditor and description of property securing lien	Estimated Judicial Lien	Total of All Senior/Unavoidable Liens	Applicable Exemption And Code Section	Value of Debtor's Interest in Property	Judicial lien <u>Not avoided</u>	Judicial lien avoided
<u>Discover Bank (judicial lien on house and lot located at 128 Brittany Lane, Bonneau, SC 29431)</u>	<u>\$12,008.00</u>	<u>BAC Home Loan Servicing (1<sup>st</sup> mtg/approx. bal. \$146,154.00) Bank of America (2<sup>nd</sup> mtg/approx. bal. \$90,165.00)</u>	<u>\$96,050/S.C. Code Ann. § 15-41-30(A)(1)</u>	<u>\$250,000.00</u>	<u>\$0.00</u>	<u>\$12,008.00</u>

The debtors filed their petition for relief under Chapter 7 of the Bankruptcy Code on February 28, 2011. They listed Discover Bank as the holder of an unsecured claim on Schedule F and disclosed the pending lawsuit on the Statement of Financial Affairs. Unbeknownst to the debtors, a default judgment was entered in favor of Discover Bank on February 22, 2011. At the time of filing, the debtors were not aware of the February 22, 2011 judgment and filed their schedules and statements with the lawsuit still listed as pending. The debtors recently discovered the judgment while attempting to sell the home and immediately contacted counsel for the filing of a motion to avoid the judicial lien.

The court finds that, the judicial lien of the above-named creditor impairs the exemptions to which the debtor would otherwise be entitled under 11 U.S.C. Section 522(b) and Chapter 41 of Title 15, Code of Laws of South Carolina, 1976 (as amended), the judicial lien should be avoided pursuant to 11 U.S.C. Section 522(f)(1)(A) in the amount set forth above.

Therefore, IT IS ORDERED, ADJUDGED AND DECREED that the judicial lien held by the above-named creditor be, and hereby is, avoided in the amount set forth above. Any judicial lien set forth above which is avoided in full may be canceled of record at any time after thirty (30) days after a discharge in this case is granted.